



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

ZACHARY W. CARTER
Corporation Counsel

THOMAS B. ROBERTS
Phone: (212) 356-0872
Fax: (212) 356-2089
E-mail: throbert@law.nyc.gov
(not for service)

January 7, 2019

The Honorable Edgardo Ramos
United States District Court
Southern District of New York
40 Foley Square
New York, N.Y. 10007

Re: *Christa McAuliffe Intermediate School PTO, Inc. v. Bill De Blasio*,
18cv11657 (ER)(OTW)

Dear Judge Ramos:

Marilyn Richter and I are Assistants Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, and are responsible for representing Mayor de Blasio and Chancellor Carranza ("Defendants") in the above-referenced matter. We write to request a three week extension of the time for the Defendants to respond to Plaintiffs' motion for a Preliminary Injunction from January 3, 2019 until January 24, 2019. Plaintiffs have not consented to this request and have countered that Defendants submit their opposition to the motion by January 17, 2019. Plaintiffs also refused to agree to a proposed extension until January 22, 2019. Plaintiffs asserted that if they agreed to the requested extension their clients might be prejudiced if the Court did not have time to determine the motion in advance of New York City Department of Education ("DOE") extending offers of admission to eight specialized public high schools for the 2019-2020 school year. In light of the importance of the case and the surrounding legal issues, ten days from today does not provide Defendants sufficient time to properly prepare our responsive papers, and we request an extension until January 24.

Background

Plaintiffs seek to preliminarily enjoin DOE from offering admission to the eight specialized high schools in March 2019, using an expanded admission program for disadvantaged students and some revisions in eligibility for that program. Defendants publicly announced these changes on June 3, 2018.

Plaintiffs served their summons and complaint together with a motion for a preliminary injunction, a 31 page memorandum of law¹, and five declarations on December 20, 2018, more than six months after the Defendants announced the challenged changes, and on the eve of the 9-day winter recess (from December 24-January 1), when many DOE administrators take vacations. Plaintiffs contend that the selection criteria violate Equal Protection, because, although a student's race is not a factor in the challenged selection process, the selection criteria may reduce the number of Asian-American students offered admission to the eight schools. Instead, the new selection process may advance diversity in that, as alleged in the complaint, the African-American and Latino students offered admission may increase collectively in the eight specialized high schools from approximately 9% to 16%.

Need for Extension

The motion for a preliminary injunction was served with the complaint but without an order to show cause or an express return date. Plaintiffs' counsel also moved for admission *pro hac vice*. Probably mistakenly, we thought that Your Honor would establish a schedule after the motions for admission were decided, and we only focused upon the applicability of Local Rule 6.1 when Plaintiffs' counsel invoked the rule in an email on January 4, 2019. We apologize to the Court for this oversight. At any rate, due to vacations, many individuals at DOE who have knowledge of the challenged program were not available over the holidays. To assemble declarations and properly brief this motion will require until January 24. Plaintiffs could then submit their reply on January 31, 2019.

Accordingly, we respectfully request that the Court establish the following schedule: Defendants' Response to the Preliminary Injunction is due January 24, 2019 and Plaintiffs' Reply is due January 31, 2019. This is Defendants' first request for an extension of the time to respond to the motion for a preliminary injunction, and the requested extension should have no impact upon any other dates that may have been scheduled. Defendants expect to respond to the complaint on January 10, 2019, twenty-one days after service.

Respectfully,



Thomas B. Roberts

Assistant Corporation Counsel

¹ Plaintiffs' memorandum exceeds Your Honor's 25 page limit, set forth in your Individual Practices at paragraph 2.B.i.